IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 20894 of 2005(K)

PETITIONER:

K.P.SHAJI, S/O.PURUSHOTHAMAN, AGED 50,
VILLAGE EXTENTION OFFICER, BLOCK OFFICE,
VAZHAKULAM, ERNAKULAM DISTRICT.

BY ADV. SRI.V.A.PRADEEP KUMAR

RESPONDENTS:

1. **ELOOR GRAMA PANCHAYATH,**
   ELOOR, UDYOGAMANDAL P.O., REPRESENTED BY ITS PRESIDENT.
2. **THE DISTRICT COLLECTOR, ERNAKULAM.**
3. **THE BLOCK DEVELOPMENT OFFICER,**
   BLOCK OFFICE, ALANGAD.
4. **THE A.D.M., KAKKANAD, ERNAKULAM.**

BY ADV. SRI.V.SANKARA RAJA
SRI.M.A.SUNILKUMAR
BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.20894/2005 K

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE SUSPENSION ORDER ISSUED BY THE 1ST RESPONDENT DTD. 24/01/2005.

EXT.P2: COPY OF THE JUDGMENT IN W.P.NO.1167 OF 2005.

EXT.P3: COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DTD. 23/02/2005.

EXT.P4: COPY OF THE LETTER ISSUED BYTHE 2ND RESPONDENT ON 2/03/2005.

EXT.P5: COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT ON 16/03/2005.

1ST RESPONDENT'S EXHIBITS:

EXT.R1(1): COPY OF LETER SENT BY B.D.O. ALANGAD TO ELOOR GRAMA PANCHAYAT DTD. 3/03/2005.

EXT.R1(2): COPY OF THE DECISION OF PANCHAYAT COMMITTEE DTD. 16/03/2005.

EXT.R1(3): COPY OF THE REPLY LETTER OF THE PETITIONER TO ELOOR GRAMA PANCHAYAT DTD. 16/03/2005.

/TRUE COPY/

P.A.TO JUDGE

KSS

ANTONY DOMINIC, J.
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W.P.(C) NO.20894 OF 2005
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Dated this the 1st day of August, 2007

J U D G M E N T

Petitioner while working as Village Extension Officer under the first respondent Grama Panchayat was placed under suspension by Ext.P1 order in contemplation of disciplinary actions. He had challenged Ext.P1 order before this Court in WP (C) No.1167/2005, which was disposed of by Ext.P2 judgment directing the District Collector or any person authorised by him to look into the matter and take a decision on Ext.P8, a representation filed by the petitioner before the District Collector, Ernakulam. It is seen that in pursuance to the directions contained in the judgment, the District Collector appointed the Additional District Magistrate as Enquiry Officer, who conducted a hearing on 17/2/2005, which was attended by all concerned including the BDO, the President, Secretary of the Panchayat, the Assistant Development Commissioner, Ernakulam and the petitioner. After detailed discussion among the parties, it was decided that the petitioner will hand over charges in the presence

of BDO, Alangad to the Lady village Extension Officer, Smt.Thankamani and that after handing over charge and files, the President will issue necessary orders withdrawing the suspension of the petitioner after giving a warning towards his dereliction of duties. It was also decided that once the decisions are implemented, the petitioner will be transferred to some other place for administrative convenience. Pursuant to the above decisions, the District Collector issued Exhibits P3 and P4 orders for the implementation of the decisions and in implementation of the above, Ext.P5 order was issued by the President of the Panchayat, under whose orders the petitioner was placed under suspension. In Ext.P5, while withdrawing the suspension of the petitioner and admitting him to duty, it was ordered that the period when he was under suspension will be regularised as leave. It is aggrieved by the said decision of the first respondent that this writ petition has been filed.

2. Separate counter affidavits have been filed by the first respondent and respondents 2 and 3. 1st respondent would inter alia content that even after passing the order by the District Collector, he did not hand over charge, files and other records,

which were locked by him in an almirah and that only with the service of a blacksmith, the almirah could be opened to get the files. According to the first respondent, in terms of the provisions contained in Rule 56((b) of the Kerala Service Rules, the authority who placed the petitioner under suspension is entitled to pass consequential order regarding the period of suspension also.

At the time of hearing, the only contention that was urged on behalf of the petitioner is that in the absence of a finding by the District Collector that the petitioner is guilty of any misconduct, there was no justification for not treating the period of suspension as duty. This contention of the petitioner overlooks the fact that it was the 4th respondent who conducted the enquiry pursuant to the orders of the District collector and this fact is mentioned in the counter affidavit filed by the respondents 1 and 2. It is stated in the counter affidavit that based on the discussions, when the petitioner was also present, it was inter alia decided that the suspension of the petitioner will be withdrawn and that a warning will be imposed “towards his dereliction of duties”. It is accepting this decision, that the District Collector has ordered that the period be treated as admissible leave. Since

the Additional District Magistrate has found that there was dereliction of duty, it is incorrect for the petitioner to content that there was no finding of guilt as against the petitioner. Respondents were well justified in ordering that the period of suspension will be treated only as leave and not as duty. In the result, I find no merit in the contentions of the petitioner and the writ petition is dismissed without any order as to costs.,

ANTONY DOMINIC, JUDGE.

Rp